

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

HARRY ARMSTRONG,

Plaintiff,

vs.

CINCINNATI BELL TELEPHONE,

Defendant.

CASE NO.
C-1-01-817

DEPOSITION OF:

HARRY J. ARMSTRONG, II

TAKEN:

By the Defendant
Pursuant to Agreement

DATE:

July 14, 2003

TIME:

Commencing at 9:30 a.m.

PLACE:

Offices of Frost Brown Todd
2200 PNC Center
201 East 5th Street
Cincinnati, Ohio 45202

BEFORE:

Nancy A. Burns
Notary Public - State of Ohio

ORIGINAL

1 Q. At installation and repair.

2 A. Installing telephones, jacks, wires, inside or
3 outside, or trouble-shooting in repair.

4 Q. Okay.

5 A. To find out what the cause of the phone problem
6 was.

7 Q. Okay. At some point did that job description
8 change?

9 A. Yes.

10 Q. When was that?

11 A. I think it was in '95 or '96.

12 Q. Okay.

13 A. Might have been before that but it was about
14 that period of time.

15 Q. Okay. And what changed?

16 A. Well, they combined, they, they combined I&R,
17 which is installation and repair, with splicing.

18 Q. Okay.

19 A. And they called it universal technician. So we
20 had to do everything from the central office all the way out
21 to the premises, all the way out through the premises and
22 everything in between.

23 Q. Okay. Help me understand the difference
24 between installation and repair and splicing.

25 A. Splicing is a little more difficult than

1 installation and repair. Splicing deals primarily with
2 cable maintenance or supplying line from the switching
3 office, which is called the central office, or CO, to the
4 customer's premises.

5 Q. Okay.

6 A. Splicing generally stopped at the customer's
7 basement or the entrance of a cable into their house. I&R
8 took it from that point on up through the premises and made
9 sure the customer had the phone service they desired.

10 Q. Okay. So around 1995 or 1996 you're saying
11 that your job, the I&R function was combined you're saying
12 with splicing and the new job description was you were a
13 universal tech?

14 A. Correct.

15 Q. Is that correct? And as a universal tech you
16 were responsible for both the installation, repair and the
17 splicing, whatever the need was, on a day-to-day basis, is
18 that correct?

19 A. That's correct.

20 Q. How did that work, Mr. Armstrong? When you
21 came to work each day as a universal tech did your immediate
22 supervisor divvy out the jobs as to here are the orders,
23 here's what needs to be done today?

24 A. Yes. At one period of time they would give us
25 a stack of printing or paper to work, work on paper, then it

1 Q. Okay.

2 A. Nobody called him William.

3 Q. Okay. And that's your signature at the bottom,
4 too, that's a little bit cut off on this copy, correct?

5 A. Yes.

6 Q. So this evaluation was reviewed with you?

7 A. Yes.

8 Q. And you were satisfied with the evaluation?

9 A. Never satisfied with an average but I guess I
10 didn't have any fight with it, no.

11 Q. Okay. I note also on the second page it notes
12 that you need to work on your attendance, correct?

13 A. Where did you say?

14 Q. On the second page of that evaluation at the
15 very bottom under Comments.

16 A. Yes, yes, correct.

17 Q. Over the years attendance was an issue for you,
18 was it not?

19 A. I guess, I believe it was.

20 (Defendant's Exhibit 9 was marked for
21 identification.)

22 Q. Showing you what's been marked Defendant's
23 Exhibit 9, take a look at these, see if you agree with me
24 this is a series of warnings to you about your attendance.

25 MR. DEARDORFF: Just for the record on the

1 Q. And this was reviewed with you?

2 A. I believe, yes, I believe so, yes.

3 Q. And were you satisfied with this performance
4 appraisal?

5 A. No. Once again, I'm never satisfied with it.

6 Q. What do you mean when you say you weren't
7 satisfied?

8 A. If it's not outstanding, which I don't know
9 that I have any, at least above average, then I'm not
10 satisfied with it.

11 Q. Not satisfied because you felt you could have
12 done better?

13 A. Perhaps.

14 Q. Is there anything about this performance
15 appraisal that you felt was not fair?

16 A. I think my personal relationships were better
17 than average but other than that overall I think it's on
18 point.

19 (Defendant's Exhibit 11 was marked for
20 identification.)

21 Q. Recognize this document?

22 A. Yes.

23 Q. And what is it?

24 A. It's a performance appraisal.

25 Q. For you, correct?

1 A. For me, correct.

2 Q. It's a 12-month appraisal, correct?

3 A. Correct.

4 Q. The date at the bottom is January 1994,
5 correct?

6 A. Correct.

7 Q. So this is the evaluation for your, the job
8 that you performed in 1993, correct?

9 A. Correct.

10 Q. And your job at the time was services
11 technician, correct?

12 A. That's correct.

13 Q. And you were indicating, I mean you were
14 receiving maximum wages, correct?

15 A. Correct.

16 Q. And it indicates an overall rating, looks like
17 it wasn't checked but it says total points 270, correct?

18 A. That's correct.

19 Q. And if you look over where that puts you that
20 would have put you in the above average category, it just
21 wasn't checked, correct?

22 A. Correct.

23 Q. And it was signed by your supervisor, Charles
24 Thrasher, correct?

25 A. Correct.

1 Q. And it was reviewed with you?

2 A. Yes.

3 Q. And you were satisfied that it was a fair
4 evaluation?

5 A. I think so.

6 (Defendant's Exhibit 12 was marked for
7 identification.)

8 Q. Do you recognize this document?

9 A. Yes.

10 Q. It's a performance evaluation for you, correct?

11 A. Correct.

12 Q. Twelve-month appraisal that's dated at the
13 bottom January 1995, correct?

14 A. Correct.

15 Q. So it's an evaluation for the year 1994,
16 correct?

17 A. Yes.

18 Q. Indicates you were a splicer, correct?

19 A. Yes.

20 Q. Earning maximum wages, correct?

21 A. Yes.

22 Q. To make sure I'm understanding what you said
23 before, if it indicates you were a splicer that was then at
24 that point you had gone to this universal tech position,
25 would that be correct?

1 A. Yes, yes, that's correct, '95, yes.

2 Q. Okay. And you received an above average
3 performance rating overall, correct?

4 A. Yes.

5 Q. And your supervisor who issued this evaluation
6 and signed it was Charles Thrasher, correct?

7 A. Yes.

8 Q. And this was reviewed with you?

9 A. Yes.

10 Q. And you were satisfied that it was a fair
11 evaluation?

12 A. Yes.

13 (Defendant's Exhibit 13 was marked for
14 identification.)

15 Q. Mr. Armstrong, I'd ask you to take a look at
16 Defendant's Exhibit 15 and tell me if you recognize it. I'm
17 not sure that it's a document you necessarily would have
18 seen. Do you recognize this document?

19 A. I won't say that I don't but I don't recall,
20 no, no, I don't recognize it.

21 Q. You'd agree with me that it indicates at the
22 top that it's a repair update, correct?

23 A. Yeah. I don't know if that's, I think this is
24 an indicator of some training that I had on meters and how
25 I, how I did, performed with that training.

1 Q. It says, He took an average amount of time --

2 A. With the tone arc.

3 Q. What is the tone arc?

4 A. All of these are, trouble busters you're going
5 to come to, also, all of these instruments are used for
6 locating trouble in telephone cable.

7 Q. But trouble buster?

8 A. Right.

9 Q. Says you took an average amount of time with
10 tone arc but struggled with trouble buster.

11 A. Mm-hmm.

12 Q. Allowed him to take a fourth day to do extra
13 practice with the trouble buster, correct?

14 A. Correct.

15 Q. And by the end of the day Harry seemed to have
16 a decent idea of how the equipment worked, correct?

17 A. Correct.

18 Q. So this was training that you were receiving on
19 equipment that you needed to use for your job as a splicer,
20 is that correct?

21 A. Do a more efficient job, right.

22 Q. Do you recall receiving training like this?

23 A. Yes.

24 Q. And over the course of your history with
25 Cincinnati Bell I assume you received training off and on on

1 a regular basis, correct?

2 A. That's correct.

3 Q. Okay. And this would seem to indicate that you
4 had been given some extra time in order to master the
5 trouble buster, correct?

6 A. Yes.

7 (Defendant's Exhibit 14 was marked for
8 identification.)

9 Q. By now you probably know what I'm going to
10 ask, which is first do you recognize this document?

11 A. Appraisal, performance appraisal.

12 Q. And performance appraisal for you for a
13 12-month period, correct?

14 A. Correct.

15 Q. And it indicates that your job at that point
16 was splicer, correct?

17 A. That's correct.

18 Q. You were being paid current wage at maximum,
19 correct?

20 A. Correct.

21 Q. And it's dated at the bottom that it was issued
22 by Ken Boatright, or signed by Ken Boatright, on January 26,
23 1998, correct?

24 A. Correct.

25 Q. So it's an appraisal for the 1997 year,

1 correct?

2 A. Correct.

3 Q. And it indicates an overall performance of
4 above average, correct?

5 A. Correct.

6 Q. And you were satisfied that this was a fair
7 evaluation from Mr. Boatright?

8 A. I think he was always fair for the most part.

9 Q. So you were satisfied that it was a fair
10 evaluation?

11 A. Yes.

12 (Defendant's Exhibit 15 was marked for
13 identification.)

14 Q. Look at Defendant's Exhibit 15 and tell me if
15 you recognize this.

16 A. It's an performance appraisal for myself.

17 Q. Okay. And it's a 12-month appraisal that was
18 issued in December of 1998, correct?

19 A. Correct.

20 Q. Since it was issued in December of 1998 it
21 would appear to be an evaluation for 1998, correct?

22 A. Correct.

23 Q. And it indicates that you were a splicer,
24 correct?

25 A. That's correct.

1 Q. Receiving wages at maximum, correct?

2 A. Correct.

3 Q. And you received an overall performance rating
4 of average, correct?

5 A. Yes.

6 Q. And it was issued and signed by Ken Boatright,
7 correct?

8 A. Yes.

9 Q. And you signed it, correct?

10 A. Yes.

11 Q. And you were satisfied that this was a fair
12 evaluation?

13 A. Yes.

14 Q. Okay.

15 (There was a brief recess and Defendant's Exhibit 16 was
16 marked for identification.)

17 Q. I think you've got in front of you what's
18 marked Defendant's Exhibit 16. Just take a moment to look
19 that over and I'll ask you to identify it for us.

20 A. It's a performance appraisal for myself, I had
21 maximum pay for the year 1999, I believe, supervisor Ken
22 Boatright.

23 Q. That's correct. And your title it indicates
24 was splicer, correct?

25 A. Yes.

1 Q. And you received an average rating, is that
2 correct?

3 A. Yes.

4 Q. And it was issued and signed by your supervisor
5 Ken Boatright, correct?

6 A. Yes.

7 Q. And you were satisfied that this was a fair
8 evaluation?

9 A. Yes.

10 (Defendant's Exhibit 17 was marked for
11 identification.)

12 Q. Mr. Armstrong, please take all the time you
13 need to look this over.

14 A. Okay.

15 Q. Do you recognize this document?

16 A. Yes.

17 Q. And what is it?

18 A. It's a performance development plan.

19 Q. Okay. And it actually looks to me like it may
20 have been stapled together out of order. Would you agree
21 with me that the first page said Attachment A Performance
22 Development Planning Worksheet?

23 A. Yes.

24 Q. And then what is currently the last page the
25 way it's been stapled together says Attachment B.

1 A. Correct.

2 Q. Individual 12-week performance improvement
3 plan. And then the second and third pages, because this is
4 a four-page document, says Attachment C at the top,
5 Individual Performance Development Plan Notification, is
6 that correct?

7 A. Right, that's correct.

8 Q. If we look at the second page, the individual
9 performance development plan notification indicates a date
10 at the bottom of May 15th, 2000, is that correct?

11 A. Yes.

12 Q. So you were informed on May 15th, 2000 that you
13 were being placed on a performance development plan, is that
14 correct?

15 A. Yes.

16 Q. Do you recall that?

17 A. Yes.

18 Q. And it indicates that, here on the second page,
19 that you have failed to meet the minimum requirements for
20 the productivity and/or quality team goals for three
21 consecutive pay periods, is that correct?

22 A. That's what it says.

23 Q. And it indicates in the middle of the page that
24 if you fail to meet your minimum goals at the end of the
25 performance improvement evaluation period you may be

1 considered for reassignment or possible dismissal, correct?

2 A. That's what it says, correct.

3 Q. And this was reviewed with you on May 15, 2000,
4 correct?

5 A. Yes. I also asked to be reassigned and was
6 denied.

7 Q. You asked to be reassigned to another position,
8 correct?

9 A. Yes, I did. Several times.

10 Q. If we look at the first page, Attachment A, the
11 actual worksheet, was this the worksheet that, is this Mr.
12 Boatright's handwriting, do you know?

13 A. I think it is, I think he's the one that done
14 the evaluation, I'm not sure. I believe it is.

15 Q. Well, he signed it on the second page?

16 A. Yes, right.

17 Q. And the first page of the worksheet, was this
18 the worksheet he went over with you to explain what it was
19 you needed to work on?

20 A. Yes, I think so, yes, I believe he did. He was
21 pretty thorough.

22 Q. And it indicates for performance objective,
23 Create higher level of confidence to handle the unexpected
24 better. Did I read that correctly?

25 A. Yes, you did.

1 Q. And under Development opportunity it indicates
2 that some training is necessary including a training video
3 on self discipline, is that correct?

4 A. Yes.

5 Q. He talked to you about having you watch a
6 training video on self discipline?

7 A. Yes, he did.

8 Q. And under Action Items it indicates among other
9 things that you need to learn to be cool in crisis, correct?

10 A. Yes.

11 Q. And under Results it says to be better equipped
12 to take action quickly and handle the problems with a clear
13 perspective, correct?

14 A. Yes.

15 Q. So Mr. Boatright went over all of this with
16 you?

17 A. Yes.

18 Q. And it indicates a completion date of August 6,
19 2000, correct?

20 A. Yes.

21 Q. So you understood, you understood in May of
22 2000 that Mr. Boatright felt you needed to learn to be cool
23 in a crisis and learn better self discipline, correct?

24 A. Yes. I don't remember what that was referring
25 to. It could be anything that people -- We all sometimes

1 are, have our moments of disagreement with another worker or
2 whoever, or could be our supervisor, I don't know.

3 Q. But you understood these were the goals he was
4 setting out for you?

5 A. Right.

6 Q. And you understood that if you didn't meet
7 these goals that it was possible that you could be
8 dismissed, correct?

9 A. That's what it says.

10 Q. Okay.

11 A. There's one more thing with this performance
12 plan that, when they first came out with it and everyone
13 passed, they raised the bar, and it was admitted that it was
14 designed so that a certain number would fail, so they had to
15 raise the bar in order to meet that objective. We all knew
16 that, so I think this was after they adjusted that.

17 Q. Mr. Armstrong, I'd just ask you to answer my
18 questions and we can get through this sometime today.

19 (Defendant's Exhibit 18 was marked for
20 identification.)

21 Q. Take a look at Defendant's Exhibit 18, please.

22 A. Okay.

23 Q. Do you recognize this document?

24 A. Yes.

25 Q. And what is it?

1 A. It's another performance development plan.

2 Q. Okay. And it indicates on the second page that
3 it was issued to you on October 3rd, 2000, correct?

4 A. Correct.

5 Q. And that's your signature that appears there,
6 correct?

7 A. That's correct.

8 Q. And it looks like it was issued, again, by Ken
9 Boatright, correct?

10 A. Yes.

11 Q. And it indicates again on the second page that
12 you had failed to meet the minimum requirements for
13 productivity and quality, correct?

14 A. Where does it say that?

15 Q. At the top. This is to notify Harry Armstrong
16 that you have failed to meet the minimum requirements for
17 the productivity or quality team goals.

18 A. Right.

19 Q. And it indicates, again, just like the other
20 one did, in the middle of the page that if you fail to meet
21 your minimum goals you may be considered for, among other
22 things, dismissal, correct, it says for reassignment or
23 dismissal?

24 A. Yes, yes.

25 Q. Okay. If we look at the first page would you

1 agree with me, Mr. Armstrong, that the first page here, the
2 worksheet, that sets out what you need to work on is almost
3 identical to the earlier performance improvement plan that
4 we looked at in terms of what it says you need to work on?

5 A. Yes.

6 Q. It again lists that you need to work on
7 handling the unexpected better, correct?

8 A. Yes.

9 Q. It says that you need to, again, go through
10 training on self discipline only this time Mr. Boatright has
11 put in parenthesis next to that Emotional control, correct?

12 A. Yes.

13 Q. It indicates that you need to be better
14 equipped to handle the unknown and be cool and calm in a
15 crisis, correct?

16 A. Yes.

17 Q. And once again it says be better equipped to
18 take action quick and handle the problems with a clear
19 perspective, correct?

20 A. Yes.

21 Q. And Mr. Boatright reviewed this with you,
22 correct?

23 A. Yes.

24 Q. You had difficulty with your emotional control
25 and self discipline?

1 A. That's what it says.

2 Q. And you were on notice by the company that it
3 felt you had that difficulty, correct?

4 A. Yes.

5 Q. Okay. Mr. Armstrong, what I'd like to do now
6 is I'd like for you to walk me through November 8th, 2000.
7 Let's start at the beginning of the day when you arrived at
8 work. You arrived at work that day and what jobs did you
9 work on that day, do you recall?

10 A. I don't remember the initial starting but at
11 some point, I think towards noon or maybe just before noon,
12 I was coupled up with another worker, that was Paul Bouldin,
13 who I had just met and I believe he had maybe two or three
14 years with the company, if that long, I'm not sure.

15 Q. And on this particular day at this point, just
16 to make sure the record is clear, you were working in the
17 North Side garage, is that correct?

18 A. Working out of the North Side garage.

19 Q. Out of the North Side garage?

20 A. Yes.

21 Q. And you were a universal tech, correct?

22 A. Yes. That's what they said.

23 Q. And at this point who was your immediate
24 supervisor?

25 A. Tim Day. No. Yeah, Tim Day.

1 A. Six to eight feet, right.

2 Q. When he came in the door he was sitting at the
3 other send of the table about six feet away. I'm sorry, go
4 ahead.

5 A. I approached, so from the north if I'm headed
6 towards, if I'm facing the south of the table at the other
7 end John would have been on the, he would have been on the
8 left --

9 Q. Okay.

10 A. -- side of the table.

11 MR. DEARDORFF: That would be he's coming from
12 the north going south?

13 A. And I came in and sat down where, at the head
14 of the table here.

15 Q. Okay.

16 A. North.

17 MR. DEARDORFF: North.

18 A. Northern most part of the table. And I plugged
19 in to access the field system with my unit.

20 Q. Okay.

21 A. And had my paperwork.

22 Q. I'm sorry. Go ahead.

23 A. This conversation was already going on about
24 the elections and something to the effect about why we
25 didn't have a president yet.

1 pertained to me.

2 Q. Who do you recall was talking?

3 A. John, Ray and Lawrence, I don't recall Paul or,
4 the two Pauls, Bouldin or Field, I don't recall any comments
5 from him.

6 Q. Okay. What I need for you to do, Mr.
7 Armstrong, is tell me as best you can recall what you recall
8 of the conversation, who said what, what was said.

9 A. I don't recall exactly what was said as far as
10 the election controversy itself. The things that stands out
11 in my mind was, you know, after several attempts to what
12 someone might say get a word in edgewise and being edged out
13 by John's behavior or his raising his voice as though I
14 didn't count, didn't matter, or wasn't there, I recall him
15 looking at me directly and swiping his hand in a claw hand
16 across his body. He's still half sitting across the table,
17 putting his unit down, and takes his hand and looking at me
18 directly and saying, You're irrelevant. That's why I lost
19 my temper. And I stood up and I lost the ball cap and the
20 coat, which I'm sure you're going to ask about, I told him,
21 Don't ever tell me that I'm irrelevant, and, I will, and I
22 used language that I'm not proud of, and then he said that
23 he didn't say I was irrelevant, he said that what I was
24 talking about was irrelevant, at which point I do recall
25 telling him that, You know, I think I can hold my own in

1 what was the gesture, help me understand.

2 A. I'm trying to do it so Nancy can print it. It
3 was, looked like claw hands and swiped from one side of his
4 body. He's half sitting on the table, I don't know how
5 you're going to get this in the record now, and he swipes,
6 he swipes and he looks at me and says, You're irrelevant.

7 Q. So it was a gesture that he made with his hand?

8 A. And a sneer on his face and --

9 Q. When he said according to you you're irrelevant
10 it was a gesture he made while he was saying you're
11 irrelevant?

12 A. Right.

13 Q. It was not a gesture towards you, it was sort
14 of a gesture across his body, is that right?

15 A. When you say towards me, it was meant for me, I
16 know that.

17 Q. Was it a fist?

18 A. No, it wasn't a fist, it was like claw hand,
19 you know, indicating you're irrelevant. I don't know how to
20 explain it.

21 Q. And then you said that you lost your ball cap
22 and coat. You threw off your ball cap and coat when you
23 lost your temper?

24 A. I did, yes.

25 Q. And you stood up?

1 A. Yes. I was signing my time sheet at that time.

2 Q. And did you move towards him?

3 A. I came, I was here and I came to this side of
4 the table and I stopped about right here, and he's sitting
5 on that side of the table. Of course the table is not as
6 wide as this one, okay? But he's still on the other side of
7 the table.

8 Q. How wide would you say the table was, according
9 to you?

10 A. I don't know, maybe three feet across and one's
11 maybe about four feet across, I'm not sure.

12 Q. So you jumped up, you threw your ball --

13 A. I stood up.

14 Q. You stood up, you threw your coat and your hat
15 off and you moved down the table towards him so that you
16 were standing across the table, directly across the table
17 from him?

18 A. No, I wasn't directly across, there was still
19 an angle, I mean he's like she was and I'm here, because
20 Lawrence Cotton got up behind me and somebody said he held
21 me. He didn't hold me, he never restrained me, but he was
22 patting me on the shoulder saying, Harry, calm down, calm
23 down, calm down.

24 Q. So Lawrence got up from where he was sitting
25 and followed you?

1 A. Well, yeah, a foot or two, couple feet.

2 Q. And you say you used language you weren't proud
3 of. I need for you to tell me in as much detail as you can
4 recall what exactly you said.

5 A. I don't recall all of that and, you know, I'm
6 not going, I'm not going to repeat that language.

7 Q. Mr. Armstrong, I've got to disagree with you
8 there.

9 A. I'm not going to repeat that language.

10 Q. That language is an issue in this case and
11 you're under oath.

12 A. Well, I'm sure you have records of all of that
13 or you have witness statements, you know. I made those
14 statements and I made them at a moment when I was upset,
15 that I don't normally use, and I'm not going to use it. I'm
16 not upset now. If you want to upset me perhaps I will, you
17 know. I'm not going to use that language again because I'm
18 not proud of it.

19 Q. What words did you say to Mr. Walker?

20 A. I'm not going to say.

21 Q. I'm going to have to insist that you answer
22 this question.

23 A. You can insist but -- I don't remember
24 everything I said. It wasn't good.

25 MR. DEARDORFF: She has a right to ask you the

1 question, Harry. I know you don't want to say it
2 because of the foulness of the language but she has
3 the right to judge --

4 A. Whatever I said, I don't remember all the words
5 but I'm ashamed that I used any of them, apart from the
6 company issue and the job issue I'm ashamed that I used any
7 of it and I don't remember any of it I said.

8 Q. Mr. Armstrong, I understand you're ashamed.
9 You filed a lawsuit and you've got to answer the question.
10 What did you say to Mr. Walker?

11 A. Don't you have witness statements? I think they
12 could say. I don't remember exactly what I said. There's
13 some things that can be cloudy in your memory, some things
14 that can be traumatized to, that's not clear, and I can sit
15 here and give you something that I think I might have said
16 but it might not necessarily be true.

17 Q. Did you tell Mr. Walker that you were going to
18 kick his mother fucking ass all over the parking lot?

19 A. I believe I did. I don't know about all over
20 the parking lot.

21 Q. You did tell him you were going to kick his
22 mother fucking ass?

23 A. I said if he wanted to continue to disrespect
24 me I would, if he wanted to continue to disrespect me I
25 would.

1 Q. And you said that more than once, did you not?

2 A. I may have.

3 Q. Do you recall anything else that you said?

4 A. I don't recall anything apart from that
5 directly that I said but whatever I said I know it wasn't
6 good.

7 Q. I'll ask you again. I need for you to tell me
8 everything that you recall that you said.

9 A. Everything that I recall that I said I don't
10 recall other than you're refreshing my memory with that last
11 statement, but, I don't know, some people have pinpoint
12 memories, you know, they can remember everything. I'm not
13 one of them. And it's gotten worse during this interim time
14 since that situation, and I feel like it's getting worse all
15 the time, I've told Tim.

16 MR. DEARDORFF: I'll just enter that the
17 question's been asked and answered.

18 Q. So it's your testimony that other than telling
19 him you were going to kick his mother fucking ass you used
20 some profanity but you --

21 A. You can start saying some things but I don't
22 remember exactly what I said to him. I do recall saying
23 that, something along those lines. Just like I don't
24 remember what the conversation about the political issues
25 were, I don't recall exactly what that was. I know it was

1 you recall?

2 A. He admitted that he brought this on hisself,
3 you know, I told him, you know, he's talking down to me ever
4 since I've known him, I didn't feel, and I told him, You
5 brought this on yourself.

6 Q. What happened next, Mr. Armstrong, according to
7 you?

8 A. We're at the point where Lawrence was standing
9 next to me and patted me on my shoulder and saying, Harry,
10 calm down. Then I said, I sat down where I was, went back
11 to my seat. Johnny and Ray, I guess they finished doing
12 their FASing, I don't know if they finished or just
13 unplugged but they left together. After they left I, I told
14 Paul Bouldin and Lawrence Cotton, I think Paul Field had, I
15 think he left and headed for his truck. I told the two of
16 them that, you know, I told them that I'm sorry for what
17 they had to witness and experience, you know, I said, This
18 has been such a wonderful day, it's a shame that it ended
19 this way. I explained that I was ashamed of my behavior, or
20 my part in it, I told them that I'd been putting up with a
21 lot with Johnny Walker since he came to our crew and he
22 hadn't really been there long enough that he should cause so
23 much trouble so fast, that he was causing problems with
24 other employees, that I didn't have any trouble with him
25 prior to him coming. And when I finished talking to them I

1 went out, I caught Paul Field before he left, he had got in
2 his van or truck and he was getting ready to drive off. I
3 stopped him, I told him the same thing, I said, I'm sorry
4 for what you had to witness, I said, I already told the
5 other guys, I said, If I could take it all back I would. I
6 can't because it's done. And he said, Sometimes you got to
7 do what you got to do, that's what he said.

8 Q. At any point in the conversation with Johnny
9 Walker did Johnny Walker tell you that he was going to kick
10 your ass?

11 A. No, not that I recall.

12 MS. MORGAN: Let's take a quick break.

13 (Defendant's Exhibit 19 was marked for
14 identification.)

15 Q. Mr. Armstrong, I'm going to ask you to take a
16 look at Defendant's Exhibit 19. Take your time to review
17 it. My first question is going to be whether you recognize
18 it.

19 A. I do.

20 Q. And what is it?

21 A. It's a statement of events that I initiated on
22 that date, November 8th, 2000, and it is addressed to
23 representatives of the CWA 4400 union.

24 Q. Okay. And is this an e-mail, is that what this
25 is?

1 A. Yes. No, I don't know if it's, doesn't look
2 like it has a complete e-mail address. Oh, no, that can't
3 go through with all those names on it, it was written up in
4 e-mail form but it wasn't actually sent to them as a letter.

5 Q. Okay. I was confused by, are you, where it
6 says From Charms 1022 at webtvnet. Is that your e-mail
7 address, or was it your e-mail address?

8 A. Yes.

9 Q. And at the top where it says Write Message
10 WebTV network, what is that?

11 A. I don't know. Write Message, I don't know. Is
12 the date after it?

13 Q. Yeah. The date is Wednesday, December 27th,
14 2000. Do you know what that date is? Is that the date you
15 wrote this?

16 A. I mean if this is in the file anywhere I can go
17 back at any time and pull this up, any date that I choose,
18 to print this out or transmit it, it's going to put that
19 date on it, so the date is always current to the date
20 something is being done as far as printing or transmission.

21 Q. Do you know, did you send this to the, to the
22 union people indicated here prior to December 27th, 2000?
23 That's possible, isn't it? Or you tell me.

24 A. December 27th?

25 Q. I guess my question is do you know when you

1 sent this?

2 A. No, I don't know exactly when I sent it. I
3 think it -- Yeah. Yeah, it could have been prior to that
4 time, because I could have, where it doesn't show anything
5 up top as far as dates.

6 Q. Let me make sure I understand. You create
7 messages like this in your e-mail program?

8 A. Right.

9 Q. But you don't always send them as e-mail, you
10 sometimes just print them out as if they're letters and mail
11 them and FAX them?

12 A. Yeah.

13 Q. Is that typically how you did this? We're
14 going to look at a lot of these and I guess my question is
15 were they e-mailed?

16 A. No. Not necessarily. When I have a name like
17 this, To President Tim Donahue slash V.P. Mel Smith slash
18 Gary, all these different names, each one of those persons
19 -- Normally they don't have groups of people that have one
20 e-mail address all grouped together.

21 Q. Right.

22 A. Each one normally have their own address.

23 Q. Right.

24 A. So this is just to alert these people that I'm
25 sending this to their attention.

1 Q. Okay.

2 A. So they may have gotten this collectively or
3 individually, I don't know, I don't remember.

4 Q. But you do recall writing it?

5 A. I do recall writing it.

6 Q. And you recall sending it?

7 A. I think by mail. It wouldn't have gone through
8 like this, I couldn't send it through.

9 Q. And that's your signature on the last page?

10 A. Yes.

11 Q. And do you recall approximately when you would
12 have sent this, or can you estimate for the record?

13 A. I think it was sometime in November I believe.

14 Q. Okay.

15 A. Late November or early December, I'm not sure.
16 I think a couple even wanted a statement from me.

17 Q. Okay.

18 A. As to my recollections of what occurred.

19 Q. Okay. And this was to serve as that statement?

20 A. This was in response to that.

21 Q. Okay. So all of the words that are here are
22 your words that you typed in, is that correct?

23 A. Yes, I believe so.

24 Q. And I assume that you meant what you wrote here
25 to be a true account in your view as to what happened,

1 Q. That you felt was descriptive of what had gone
2 on on November 8th, correct?

3 A. Not necessarily because I said in here for lack
4 of a better example.

5 Q. During the incident on November 8 with Mr.
6 Walker did he at any point make any threats towards you?

7 A. I will answer again, which I think you asked me
8 that before, I don't recall.

9 Q. And, Mr. Armstrong, I think I asked you this
10 before. Just to make sure, this statement that we're
11 looking at here was what you intended to be an accurate
12 description of what went on that day, is that correct?

13 A. The statement. You mean this letter?

14 Q. Yes.

15 A. Yes. I think I tried to write accurate, I
16 didn't try to write inaccurate, what I thought using my
17 thoughts.

18 Q. Other than the talking over you that you've
19 described and the slurs and slang towards women involving
20 hunting that you've described has Mr. Walker ever said
21 anything else to you that you found to be offensive?

22 A. Well, he exhibited the same behavior before we
23 were coupled on the job, on several jobs. Not several,
24 about two jobs before.

25 Q. When you say the same behavior you're referring

1 A. I don't recall him asking that particular
2 night, you know, that seems to me like that came later,
3 maybe much later, but I don't recall it being that night,
4 no. I recall him saying there was going to be a full
5 investigation as to what occurred and for me not to come to
6 work the next day and that I would hear from someone. And I
7 think that may have had to do with medical or supervisor, I
8 don't know, I don't recall for sure.

9 Q. At some point the company asked you for a
10 statement and you provided the statement we've already
11 reviewed, correct?

12 A. At some point, that's correct.

13 Q. Okay. Then after that conversation that night
14 what happened after that? You received a phone call soon
15 after that from Steve Haaser, is that correct, with Tim
16 Donoghue on the phone?

17 A. Yes.

18 Q. Do you recall that?

19 A. Yes.

20 Q. And that was in November of 2000, correct?

21 A. November, late November, early December,
22 something like that, yes.

23 Q. Okay. And what do you recall about that
24 conversation?

25 A. It was a three-way call or three-party call and

1 I believe Steve Haaser suggested that I would be, how did he
2 put it, quote, "join the ranks of the retired" on my 50th
3 birthday.

4 Q. Steve Haaser is a manager, correct?

5 A. Yes.

6 Q. And Tim Donoghue was on the phone, he was a
7 union rep?

8 A. Union president, right.

9 Q. So Mr. Haaser explained to you that they were
10 going to allow you to stay on disability leave until January
11 2002 at which point you would qualify for retirement
12 benefits, correct?

13 A. I don't know -- Yeah, something, yes.

14 Q. Was that your understanding of what the company
15 was doing?

16 A. At the time I don't really know what I
17 understood because I was more miffed by the fact that Tim
18 didn't say anything. Okay? He just more or less, he was on
19 the line. He did call me back afterwards and, after the
20 conversation was over, but I began to become disillusioned
21 for what the union's role was. Then I began to think back
22 on times when I was not established as - Should I stop?

23 Q. No, please go ahead, sir.

24 A. When I was not, I was not established as a
25 union member and what role, if any, this was playing into

1 all of this, and I began to feel like, well, this is payback
2 time, so --

3 Q. I think I misspoke before, Mr. Armstrong, when
4 I said January 2002. I meant January 2001. Was your
5 understanding that was in November of 2001?

6 A. No. When you say that I know what you're
7 referring to.

8 Q. Was your understanding they were going to keep
9 you on disability leave until January 2001 at which time
10 you'd be eligible for retirement?

11 A. My 50 birthday, right, my understanding.

12 Q. Do you recall whether Mr. Haaser said anything
13 else to you during the telephone conversation about the
14 action the company was taking or do you not remember?

15 A. At that time it seemed to me, and I may very
16 well be wrong, but it seemed to me that everything was still
17 up in the air because everything I was doing, investigating,
18 I believe my concept was that the union was doing the same
19 and that at some point they were going to take action which
20 --

21 Q. But Mr. Haaser explained to you, didn't he,
22 that the company could have just terminated your employment
23 but had decided given your years of service to let you stay
24 on disability status until you were eligible for retirement
25 benefits, correct?

1 calls, and then with somebody else and I couldn't get her
2 periodically.

3 Q. But medical benefits were part of the package
4 that you filled out forms and sent back to the company?

5 A. Yes.

6 Q. And you received a lump sum payment in October
7 2002 under the retirement plan, did you not?

8 A. No. I was told that I received it in October
9 and I didn't actually get this until I think December.

10 Q. Okay. It was a lump sum payment of about
11 \$114,000, is that correct?

12 A. Before or after taxes? Before taxes, yes.

13 Q. 114,000?

14 A. Right.

15 Q. So, Mr. Armstrong, it sounds to me like, tell
16 me if this is correct, like you received the lump sum
17 retirement benefit, you've been working through, from an
18 administrative standpoint, understanding what your medical
19 benefits are, correct?

20 A. Are you saying that I've been trying to
21 understand what the medical --

22 Q. Yes.

23 A. Yes.

24 Q. Okay.

25 (Defendant's Exhibits 21 & 22 were marked for

1 not making a decision, yes, I made a decision.

2 Q. And you didn't follow up with anybody at the
3 company at any point about the comments or behavior that you
4 had found at any point to be offensive or threatening,
5 correct?

6 A. Perhaps you're right. If, if I did not bring
7 this up to Jan Bending, then again I don't recall if I
8 talked to her. I know generally why I was going to her had
9 reference to these situations, these escalating situations,
10 and if I didn't bring it up to Boatright, no, I didn't bring
11 it up to anybody in company management.

12 Q. You don't recall specifically bringing it up
13 with Boatright?

14 A. I don't recall specifically.

15 Q. You don't recall specifically bringing it up
16 with Jan Bending?

17 A. No. And if she says I didn't, then I didn't,
18 you know, I won't argue that.

19 (Defendant's Exhibit 31 was marked for
20 identification.)

21 Q. Mr. Armstrong, do you recognize Defendant's
22 Exhibit 31?

23 A. I do.

24 Q. And what is it?

25 A. It's an interunion memo between president, Tim

1 Donoghue, of Local 4400 from CWA Staff representative,
2 Henley Johns, dated June 19th, 2001, it's in reference to
3 myself, Harry Armstrong, Grievance Number 02-12-00 and it's
4 a statement that they were dismissing my case, this was to I
5 guess a district level.

6 Q. So the union, a grievance was filed on your
7 behalf over your dismissal, correct?

8 A. Correct.

9 Q. By the union, correct?

10 A. Right.

11 Q. And this letter indicates that after reviewing
12 it the union declined to refer it to arbitration, correct?

13 A. Right.

14 Q. And the union states in this letter that they
15 do not, if you look under the second paragraph from the
16 bottom, they do not find this case to be racially motivated
17 as Mr. Armstrong suggests, correct?

18 A. That's correct.

19 Q. And they state in the first paragraph that it
20 is their opinion that an arbitrator would rule against the
21 union based on witness statements that Mr. Armstrong did in
22 fact challenge Mr. Walker to go outside and based on
23 language that you were going to kick his blank blank ass
24 more than once, correct?

25 A. Correct.

1 Q. You appealed this decision, is that correct?

2 A. I did.

3 (Defendant's Exhibit 32 was marked for
4 identification.)

5 Q. Do you recognize Defendant's Exhibit 32?

6 A. I do.

7 Q. And this is a letter that you wrote and sent to
8 the union, correct?

9 A. Right.

10 Q. And it is an appeal of the Defendant's Exhibit
11 31 that we just reviewed, is that correct?

12 A. Yes.

13 (Defendant's Exhibit 33 was marked for
14 identification.)

15 Q. And that appeal was denied, correct?

16 A. That's correct.

17 Q. Do you recognize Defendant's Exhibit 33?

18 A. I do.

19 Q. And what is it?

20 A. I think it's reference to my appeal and
21 dismissal of my case by the, to Tim Donoghue, union
22 president, from Jeff Rechenbach, vice-president at some
23 district level in the union.

24 Q. And Mr. Rechenbach states in the second
25 paragraph of this letter that he has thoroughly reviewed the

1 file and that he does not believe they would prevail in
2 arbitration and is therefore denying the appeal, correct?

3 A. Yes.

4 Q. And then in the next paragraph he goes on to
5 say that the behavior you engaged in is clearly prohibited
6 by the company's rules and is the kind of behavior that
7 often leads arbitrators to sustain discharges. Did I read
8 that correctly?

9 A. Yes, you did.

10 Q. He also goes on to say at the end of that
11 paragraph that he's reviewed your contentions in your
12 lengthy and numerous documentation and he doesn't find the
13 contentions sufficient to overcome the evidence against you,
14 is that correct?

15 A. That's correct.

16 Q. Mr. Armstrong it's fair to say the union didn't
17 think you had a case, correct?

18 MR. DEARDORFF: Objection.

19 A. Depends on who you're asking.

20 (Defendant's Exhibit 34 was marked for
21 identification.)

22 Q. Do you recognize Defendant's Exhibit 34?

23 A. I do.

24 Q. And what is it?

25 A. It's a complaint that I filed against CBT.

1 MS. MORGAN: We will hold this deposition
2 open.

3 MR. DEARDORFF: Absolutely.

4 MS. MORGAN: Because we have not received
5 discovery and we'll be free to explore any further questions
6 we need when we resume.

7 MR. DEARDORFF: There's no problem with that,
8 that's fine.

9
10 
11 HARRY J. ARMSTRONG, II

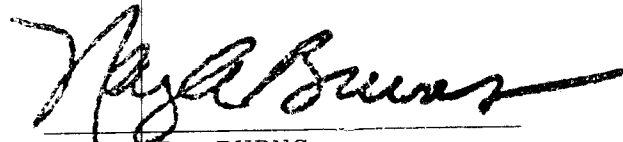
12 - - -
13 DEPOSITION CONCLUDED AT 5:45 p.m.
14 - - -

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SEE NEXT PAGE

RULE 30(E) OF THE OHIO RULES OF CIVIL PROCEDURE BEING
INVOKED. REASON: AFTER HAVING BEEN SUBMITTED FOR
SIGNATURE, TRANSCRIPT WAS NOT SIGNED BY DEPONENT WITHIN
THE ALLOTTED TIME PER RULE30(E).

C E R T I F I C A T E

I, **NANCY A. BURNS**, THE UNDERSIGNED, HAVE SIGNED THE
SIGNATURE OF **HARRY J. ARMSTRONG, II**, TO THE DEPOSITION
PURSUANT TO THE ABOVE-STATED REASON.



NANCY A. BURNS
NOTARY PUBLIC-STATE OF OH

MY COMMISSION EXPIRES:
JULY 20, 2004

C E R T I F I C A T E

STATE OF OHIO :

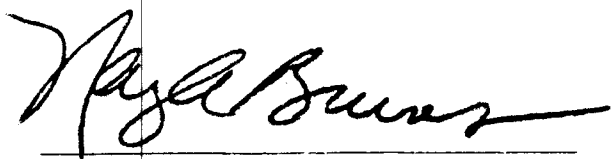
: SS

COUNTY OF HAMILTON :

I, Nancy A. Burns, the undersigned, a duly qualified and commissioned notary public within and for the State of Ohio, do hereby certify that before the giving of his aforesaid deposition, HARRY J. ARMSTRONG, II was by me first duly sworn to depose the truth, the whole truth and nothing but the truth; that the foregoing is the deposition given at said time and place by HARRY J. ARMSTRONG, II; that said deposition was taken in all respects pursuant to stipulations of counsel hereinbefore set forth; that I am neither a relative of nor employee of any of their counsel, and have no interest whatever in the result of the action.

IN WITNESS WHEREOF, I hereunto set my hand and official seal of office at Cincinnati, Ohio, this 23rd day of September, 2003.

My commission expires:
July 20, 2004.


Nancy A. Burns
Notary Public - State of Ohio

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION
4 -----

5 HARRY ARMSTRONG,

6 Plaintiff,

7 vs.

8 CINCINNATI BELL TELEPHONE,

9 Defendant.
10 -----

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CASE NO.
C-1-01-817

11
12 VOLUME II
13

14 Deposition of: HARRY ARMSTRONG

15 Taken: By the Defendant
Pursuant to Agreement

16 Date: August 22, 2003

17 Time: Commencing at 9:52 a.m.

18 Place: Frost Brown Todd LLC
19 2200 PNC Center
20 201 East Fifth Street
Cincinnati, Ohio 45202

21 Before: Karen Volk, RPR
and
22 William A. Schupp, CLVS
Notaries Public -
23 State of Ohio
24
25

PLEASE INSERT THESE
PAGES IN YOUR ORIGINAL

1 employment with Cincinnati Bell?

2 A. Not that I'm aware of.

3 Q. Do you know if you were replaced at
4 Cincinnati Bell?

5 A. No, I don't.

6 MS. COOK MORGAN: Go off the record for a
7 moment here.

8 THE VIDEOGRAPHER: We're off the record at
9 11:20.

10 (Off the record.)

11 (Mr. Seidler left the room and .

12 Mr. Skidmore entered the room.)

13 THE VIDEOGRAPHER: We're back on the
14 record at 11:20.

15 MS. COOK MORGAN: I'm sorry, Karen, could
16 you read back the last question and
17 Mr. Armstrong's answer, if you would?

18 (The record was read.)

19 Q. Mr. Armstrong, do you believe that
20 Cincinnati Bell has damaged you in any way?

21 A. Very much.

22 Q. How do you believe you've been damaged by
23 Cincinnati Bell?

24 A. The precipitation (sic) of -- from the
25 fallout, the aftermath of what has happened. I've

1 questions at this time.

2 We've agreed to -- that there are some
3 outstanding discovery issues here. We've
4 agreed to hold the deposition open in the event
5 it's necessary to address issues once those
6 discovery issues get resolved, okay?

7 MR. DEARDORFF: All right. As counsel
8 for Mr. Armstrong, that statement is correct.

9 There are some minor outstanding
10 discovery issues that have to be discussed and
11 there may be some question as to whether the
12 deposition will continue. If it has to
13 continue, it will either be by agreement, if we
14 can't agree, then we'll consult the magistrate.
15 The appropriate rules.

16 MS. COOK MORGAN: Thank you.

17 THE VIDEOGRAPHER: We're off the record at
18 12:16.

19 
20 HARRY ARMSTRONG

21 - - -

22 DEPOSITION CONCLUDED AT 12:16 P.M.

23 - - -

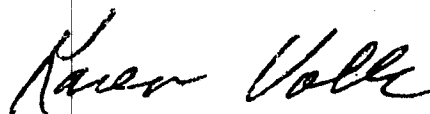
24 SEE NEXT PAGE

25 ORIGINAL

**RULE 30 (E) OF THE OHIO RULES OF CIVIL PROCEDURE BEING
INVOKED.** REASON: AFTER HAVING BEEN SUBMITTED FOR
SIGNATURE, TRANSCRIPT WAS NOT SIGNED BY DEPONENT WITHIN
THE ALLOTTED TIME PER RULE 30 (E).

C E R T I F I C A T E

I, **KAREN VOLK**, THE UNDERSIGNED, HAVE SIGNED THE
SIGNATURE OF **HARRY ARMSTRONG**, TO THE DEPOSITION PURSUANT
TO THE ABOVE-STATED REASON.



KAREN VOLK, RPR
NOTARY PUBLIC-STATE OF OH

MY COMMISSION EXPIRES:
September 17, 2007

C E R T I F I C A T E

STATE OF OHIO :
: SS
COUNTY OF CLERMONT :

I, Karen Volk, RPR, the undersigned, a duly qualified and commissioned notary public within and for the State of Ohio, do hereby certify that before the giving of his aforesaid deposition, HARRY ARMSTRONG was by me first duly sworn to depose the truth, the whole truth and nothing but the truth; that the foregoing is the deposition given at said time and place by HARRY ARMSTRONG; that said deposition was taken in all respects pursuant to stipulations of counsel; that I am neither a relative of nor employee of any of the parties or their counsel, and have no interest whatever in the result of the action; that I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I hereunto set my hand and official seal of office at Hamilton, Ohio, this 27th day of September, 2003.

My commission expires: Karen Volk
September 17, 2007. Notary Public - State of Ohio

Ace Reporting Services (513) 241-3200
30 Garfield Place, Suite 620 Cincinnati, Ohio 45202

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